

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DELTA COMMUNITY CREDIT UNION
Plaintiff

v.
JASON ARNEL RANDALL, JR
Defendant

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Case No. 23-54072-pmb

Adversary Proceeding No. 23-05065-pmb

SECOND AMENDED COMPLAINT TO DETERMINE DISCHARGABILITY OF DEBT

COMES NOW, Delta Community Credit Union (Delta) and its second amended Complaint states as follows:

PARTIES

1.

Jason Arnel Randall, Jr is a Debtor in bankruptcy case no 23-54072-pmb filed under Chapter 7 Title 11 of the United States Code.

2.

Delta is a company with offices located in Atlanta, Georgia.

JURISDICTION AND VENUE

3.

This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C § 157 and 1334.

4.

Venue is this Court for this proceeding is proper under 28 U.S.C § 1409(a).

5.

The Debtor filed a Chapter 7 case on May 1, 2023.

CAUSE OF ACTION

6.

The Debtor opened an account with Delta on or around May 20, 2014.

7.

On January 16, 2019, the Debtor made a deposit in the sum of \$3,100.28 in his Delta account and withdrew funds from the account commensurate with this deposit on January 22, 2019. This check was returned to Delta as being altered/ fictitious/ counterfeit. On January 17, 2019, the Debtor made a deposit at the different Delta Branch in the sum of \$2,994.77 and withdrew funds from the account. This second check was returned on January 23, 201 as forgery. The Delta Loss Prevention Department spoke with the Debtor in January 2019 advising him he was responsible for the negative \$5,513.60 balance which resulted because of the two fraudulent transactions. At the time the Debtor made the deposit of the aforesaid checks the Debtor knew there were insufficient funds in the accounts they were drawn on to cover said checks.

8.

The actions taken by the Debtor in regard to the subject accounts constitute larceny and/or defalcation while acting in a fiduciary capacity thereby rendering the resulting \$ 5513.60 debt to Delta non dischargeable pursuant to 11 U.S.C. § 523(a)(4).

9.

The Debtor is hereby notified pursuant to O.C.G.A. § 13-1-11 of Delta's intention to collect its contractual and reasonable attorney fees.

Therefore, based upon the above and foregoing Delta is entitled to the issuance of an order and judgement against the Defendant of \$5,513.60 along with an award of its reasonable attorney fees and a determination then said debt is non-dischargeable pursuant to 11 U.S.C. § 523(a)(4).

This the 15th day of April , 2024

Respectfully Submitted

/s/Richard B. Maner

Richard B. Maner, GA Bar 486588

Attorney for Plaintiff

180 Interstate N Parkway, Suite 200

Atlanta, GA 30328

404-252-6385 Phone; 404-252-6394 Fax

rmaner@rbmlegal.com

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of April 2024, I electronically filed the foregoing **SECOND AMENDED COMPLAINT TO DETERMINE DISCHARGABILITY OF DEBT** using the Bankruptcy Court's Electronic Case Filing program which sends a notice of this document and an accompanying link to the document to the following parties who have appeared in the case under the Bankruptcy Court's Electronic Case Filing program:

Aaron Weinberg
The Semrad Law Firm, LLC
6125 Old National Hwy, Ste 121
Atlanta, GA 30349

I further certify that on this day I caused a copy of this document to be served via ***UNITED FIRST- CLASS MAIL with ADEQUATE POSTAGE PREPAID*** on the following parties at the address shown for each.

Jason Arnel Randall, Jr
3042 E Chapel Cir
Decatur, GA 30034

This the 15th day of April 2024

/s/Richard B. Maner

Richard B. Maner, GA Bar 486588
Attorney for Plaintiff
180 Interstate N Parkway, Suite 200
Atlanta, GA 30339
404-252-6385 Phone; 404-252-6394 Fax
rmaner@rbmlegal.com